

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 777 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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MALDEBHAI RAMABHAI MER

Versus

STATE OF GUJARAT  
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Appearance:

MR YOGESH S LAKHANI for Petitioner

MR HL JANI, APP for Respondent  
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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 15/09/1999

ORAL JUDGEMENT

Heard learned counsel for the petitioner.  
Present petitioner-original accused has filed the present Special Criminal Application against the two concurrent orders passed by the Courts below wherein Police custody of the present petitioner for a period of two days has been granted by the learned JMFC, Rajkot which has been confirmed by the learned Addl. Sessions Judge, Rajkot.

It is submitted on behalf of the present petitioner that the allegation against the present petitioner is that he was having one country made gun with him and for the purpose of interrogating the present petitioner by the Investigating Officer regarding the whereabouts of purchase of that gun, Police custody has been granted by the Court below for a period of two days. It is also submitted that petitioner is involved in PASA and he has been detained in the Central Jail, Sabarmati, Ahmedabad. At present he is suffering from paraparesis and he is not in a position to move freely and, therefore, orders passed for police custody of the

present petitioner for a period of two days may be set aside only on that ground.

First I have issued notice to the state and also called for the report about the present physical condition of the present petitioner from the Medical Officer, Central Jail, Sabarmati. Today, learned APP, Mr.Jani has produced the certificate dated 15-9-1999 issued by the Medical Officer, Central Jail, Sabarmati stating that the present petitioner is suffering from paraparesis under investigation and for that, he was admitted in the Civil Hospital on 5-5-1999 and he was discharged on 14-6-1999. C.T. Scan was also carried out on the present petitioner. It is also opined by the Medical Officer that present petitioner is not able to move without wheelchair. Hence, without entering into the merits of the matter and knowing fully well that the present Special Criminal Application has been preferred against two concurrent orders passed by the Courts below, considering the present state of health of the petitioner, present petition is required to be allowed and order passed by the Courts below is required to be set aside. Hence, the following order is passed.

Order dated 23-8-1999 passed by the learned Addl. Sessions Judge, Rajkot in Criminal Revision Application No.60 of 1999 and also order dated 24-4-1999 passed by the learned JMFC, Rajkot granting police custody of the present petitioner for a period of two days are hereby set aside. In case the Investigating Officer desires to interrogate the petitioner, then he is at liberty to visit the Central Jail, Sabarmati, Ahmedabad after obtaining necessary permission from the jail authority and the doctor concerned and to interrogate the present petitioner in the jail premises itself. D.S. is permitted.

Medical certificate dated 15-9-1999 issued by the Medical Officer, Central Jail, Sabarmati is ordered to be taken on record.

This Special Criminal Application stands disposed of accordingly.

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